

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

1993 AUG 31 PM 4:43 * *

USA

CIVIL NO. 91-578

vs.

MINUTES OF COURT

DATE: 8/31/93

PLACE: Benton

N L Industries

PRESENT: HONORABLE James L. Foreman
DEPUTY CLERK: Uicki McGuire COURT REPORTER N/A
COUNSEL FOR PLAINTIFF(S): Kevin Holewinski and Leonard
Gelman
COUNSEL FOR DEFENDANT(S): Louis Bonacorsi and Ed Fitzhenry
MINUTE ORDER IN CHAMBERS (✓):
PROCEEDINGS: Telephone Status Conference

Based on EPA's agreement to reopen the Administrative Record as part of a settlement effort, the Court STAYS this case pending completion of the renewed administrative proceedings and dismisses all pending motions as moot without prejudice to refiling the motion at a later date. The parties to work out among themselves when the new notice and comment period will begin, but the Government indicates that it will be within 3-4 weeks after new blood lead study is released.

STUART J. O'HARE, CLERK

Uicki McGuire
DEPUTY CLERK



SENT BY: COBURN_&_CROFT

: 8-30-93 ; 2:08PM ;

3145212989+

12025140097# 2

COBURN & CROFT

ATTORNEYS AND COUNSELORS AT LAW

ONE MERCANTILE CENTER-SUITE 2000

ST. LOUIS, MISSOURI 63101

(314) 821-8575

TELECOPY (314) 821-8588

120 WEST MAIN STREET, SUITE 207
SELLEVILLE, ILLINOIS 62220
(618) 277-1080

REPLY TO ST. LOUIS

Louis F. Bonaccorsi
Ext. 282

August 30, 1993

Mr. Kevin P. Holewinski
Assistant Attorney General
Environment & Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044

Via Fax 202-514-0097

Mr. Leonard M. Gelman
Assistant Attorney General
Environment & Natural Resources Division
Environmental Enforcement Section
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044

Via Fax 202-514-0097

Re: United States v. NL Industries, Inc., et al.
Civil Action No. 91-578-JLF
DOJ No.: 90-11-3-608A

Gentlemen:

While expressly reserving all substantive and procedural rights, we agree with the Government's decision to reopen the Administrative Record at the NL site. The PRPs and the City have been attempting to secure reconsideration of the Government's chosen residential soil remedy for over three years.

It is important that the mechanics of the reopening be established as quickly as possible. In light of the extensive nature of the health study, it may take more than thirty days for it to be reviewed and incorporated into written comments. Perhaps this can be discussed briefly before our conference with the Court.

Specifically, CERCLA requires that the Government provide for participation of all interested persons, including potentially responsible parties. At what point is the Government planning to notify the remaining three hundred or so PRPs of its decision? Also, absence of proper notice, as alleged by the PRP Defendants in this case, is significant to the Government's

SENT BY: COBURN_&_CROFT

: 8-30-93 : 2:09PM :

3146212988-

120251400971# 3

August 30, 1993
Page 2

ongoing "response actions" at the site. It is the position of the PRP Defendants that until EPA's non-compliance with the notice provision of CERCLA is cured, the Government's ongoing expenditure of funds is not recoverable. We understand from officials of the City of Granite City that the cost of the rapid response action will be seven times greater than the estimate in the Administrative Record.

Very truly yours,



Louis F. Bonacorsi

LFB:lla

cc: The Honorable James L. Foreman

All Counsel of Record
per Attached Service List